

ORDINANCE NO. 10-22

**ORDINANCE ENACTING AND ADOPTING SECTION 150.37 OF THE MADEIRA CITY CODE, AND AMENDING THE ZONING MAP OF THE CITY OF MADEIRA BY THE CREATION OF TRANSITIONAL OVERLAY DISTRICT NUMBER 3 (TD#3) FOR HOSBROOK ROAD**

WHEREAS, the City has identified an area within the community on Hosbrook Road near the intersection of Montgomery that is to be impacted by proposed development in Sycamore Township; and

WHEREAS, the said area is currently zoned to permit only single-family residential uses that will be negatively affected by said proposed development if they are to remain single-family; and

WHEREAS, the City desires to stabilize this area by permitting reasonable development that will allow property owners to use their property for more intense multi-family and office uses, and

WHEREAS, the zoning change to multi-family and office uses in said area will provide a transition between the existing less intense single-family residential uses to the south and east of the area and the more intense business uses to the north and west; and

WHEREAS, it is recognized in that area there is a need for this type of development within the city, and the level of traffic and proximity to commercial areas and uses makes the area appropriate for increased density; and

WHEREAS, setback and landscaping provisions in the text of Section 150.37 are provided to protect the existing adjacent single-family homes; and

WHEREAS, after numerous public meetings were held to obtain input from residents and other interested parties; and

WHEREAS, Planning Commission has held a Public Hearing in accordance with the Charter, and recommended the text amendments attached hereto as Exhibit "A" and map amendments as Exhibit "B"; and

WHEREAS, Council has held three separate readings on the proposed amendment to the zoning code, and in addition has held a properly noticed Public Hearing in accordance with the Madeira Charter.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Madeira, State of Ohio as follows:

**Section 1.** Chapter 150 of the Madeira Code of Ordinances is hereby amended by the creation of Section 150.37, the text of which amendment is set forth on Exhibit "A", attached hereto and incorporated herein; and furthermore, that the official zoning map of the City of Madeira is hereby amended, pursuant to Exhibit "B", to reflect the location of the Transitional Overlay District Number 3 (TD#3) .

**Section 2.** That this Ordinance is adopted in accordance with the Charter of the City of Madeira and shall become effective on \_\_\_\_\_.

**ORDINANCE NO. 10-22**  
**EXHIBIT “A”**

**§ 150.37 TRANSITIONAL OVERLAY DISTRICT #3**

- (A) Intent. It is the intent of the Transitional Overlay District #3 (hereinafter referred to as “TD#3”) to designate a sensitive transitional area of the city for certain types of controlled development consistent with the purposes of the city as set forth herein. The request for approval of a TD#3 Development Plan within a TD#3 may only be approved if it is initiated or authorized by the property owner(s). The area of a TD#3 is set forth on Exhibit B attached to Ordinance No. 10-22, passed on \_\_\_\_\_.
- (B) Purposes. The specific purposes of the TD#3 are:
- (1) To encourage development of appropriate land uses in the district given the existing surrounding development.
  - (2) To provide adequate buffering for the protection of existing adjacent residential uses and districts from the adverse impacts of more intense uses that may be developed in the TD#3.
  - (3) To provide for the orderly transition from an existing Residential “A” District to the south and east of the TD#3 to the higher intensity uses of the Business “A” District to the north and west. This must be done in a manner that promotes harmony within the TD#3 as well as providing a transition between surrounding districts.
- (C) Applicability. This TD#3 is established as an overlay district by Council superimposed on specific areas of a Residential A District designated on Exhibit “B”, attached to Ordinance No. 10-22 passed on \_\_\_\_\_. It shall be identified on the zoning map by a “TD#3”. This specific TD#3 is designed to address zoning issues in this location and is not intended to be applicable to other areas unless the Zoning Code is amended in accordance with the procedures set forth in the Charter of Madeira. In the TD#3, all zoning regulations applicable to the Residential A District shall remain in effect until such time as approval may be given to a Final TD#3 Development Plan for the lot or parcel.
- (D) Development Plan Required. Redevelopment of the property shall require a Development Plan which includes necessary public improvements. The Development Plan requirements are listed in Section (G) below.
- (E) Definitions.
- (1) Impervious Surfaces. Surfaces (e.g. parking lots and rooftops) covered by impenetrable materials such as [asphalt](#), [concrete](#), [brick](#), and [stone](#).
  - (2) Independent Living Building. A building which contains complete housing units for individual use, each including kitchen, bathroom, living room and at least one bedroom. Transportation services and facilities such as congregate dining, social gathering areas, library, prayer chapel and exercise room may also be included. No nursing type facilities are included.
  - (3) Bufferyard. An area of healthy and viable vegetation, natural or planted, installed and maintained for the purposes of separating and screening the effects of a higher intensity land use upon a lower intensity land use. The bufferyard is to be placed within the setbacks, as described herein, and is to contain only vegetation; and no part of the is to be used for parking or driveways.

(F) Permitted uses.

- (1) As a matter of right, those buildings and uses permitted in the underlying Residential A District shall be permitted in accordance with all applicable regulations of that underlying district, until such time as buildings and uses authorized by a TD#3 Development Plan are approved. Thereafter, only those buildings and uses approved for a TD#3 Development Plan shall be valid on the property. The transition from original uses to TD#3 uses shall be in accordance with the schedule for construction approved as part of the TD#3 application. Failure to complete the improvements and obtain a final certificate of occupancy within the approved time frame, including any authorized extensions, shall cause the approval of the TD#3 Development Plan to lapse, and the site shall revert to only buildings and uses permitted in the underlying district.
- (2) Multi-family residential uses, including attached townhouses, pursuant to a TD#3 Development Plan, subject to review and approval in accordance with the provisions of this chapter, that meet the following standards:
  - (a) 2.24 acres minimum site size;
  - (b) no more than 15 dwelling units per acre calculated on the entire gross acreage of the development site;
  - (c) one hundred (100) foot minimum setback from the side property line to the south;
  - (d) ten (10) foot minimum setback from the side property line to the north;
  - (e) ten (10) foot minimum rear yard setback from the east property line abutting a non-residential use;
  - (f) fifty (50) foot minimum rear yard setback from the east property line abutting a residential use;
  - (g) thirty (30) foot minimum attractively landscaped setback from Hosbrook Road which includes a combination of grass, groundcover, and trees, and does not interfere with visibility for drivers entering and exiting the property;
  - (h) twenty-five (25) foot minimum landscaped bufferyard within the 100 foot and 50 foot setbacks, pursuant to (I)(8) herein ;
  - (i) minimum unit size of 750 square feet;
  - (j) minimum of two (2) enclosed parking spaces per unit; and
  - (k) minimum of one (1) visitor parking space per unit that can either be enclosed or a surface parking lot.
- (3) Independent Living for adults age 55 and older, defined as in E(2) above, pursuant to a TD#3 Development Plan, subject to review and approval in accordance with the provisions of this chapter, that meet the following standards:
  - (a) 2.24 acres minimum site size;
  - (b) no more than 15 dwelling units per acre calculated on the entire gross acreage of the development site;
  - (c) one hundred (100) foot minimum setback from the side property line to the south;
  - (d) ten (10) foot minimum setback from the side property line to the north;
  - (e) ten (10) foot minimum rear yard setback from the east property line abutting a non-residential use;
  - (f) fifty (50) foot minimum rear yard setback from the east property line abutting a residential use;
  - (g) thirty (30) foot minimum attractively landscaped setback from Hosbrook Road which includes a combination of grass, groundcover, and trees, and does not interfere with visibility for drivers entering and exiting the property;

- (h) twenty-five (25) foot minimum landscaped bufferyard within the 100 foot and 50 foot setbacks, pursuant to (I)(8) herein ;
  - (i) minimum unit size of 750 square feet;
  - (j) minimum of one (1) enclosed parking space per unit; and
  - (k) minimum of seven (7) employee parking spaces and one (1) visitor parking space per unit that can either be enclosed or a surface parking lot.
- (4) Offices for professional use (such as attorneys, doctors, architects, dentists, and engineers) and office-type business uses (such as real estate, insurance and manufacturers' representatives). Activities which are normal, necessary and subordinate to the office use listed herein shall be permitted. Examples of such activities include the preparation of dental supplies for patients, examination of and treatment of patients of a physician, meeting with clients and provision of services by attorneys and insurance representatives, and closings held at a real estate office. There shall be no permitted use of such offices that is not clearly within the types of activities described herein.
- (a) Offices converted from residential structures existing at the time of adoption of these TD#3 regulations for which no expansion or other exterior changes are proposed must meet the following standards:
    - (1) one (1) parking space for each 500 square feet of gross office space;
    - (2) compliance with all other parking requirements of Section 150.20 of the Madeira zoning code;
    - (3) new parking areas abutting a residence use must not be placed within 25 feet of the property ; and
    - (4) some submission requirements may be waived by the City Manager.
  - (b) Offices which are new construction must meet the following standards:
    - (1) 2.24 acres minimum site size;
    - (2) one hundred (100) foot minimum setback from the side property line to the south;
    - (3) ten (10) foot minimum side yard setback from the side property line to the north;
    - (4) ten (10) foot minimum rear yard setback from the east property line abutting a non-residential use;
    - (5) fifty (50) foot minimum rear yard setback from the east property line abutting a residential use;
    - (6) thirty (30) foot minimum attractively landscaped setback from Hosbrook Road which includes a combination of grass, groundcover, and trees, and does not interfere with visibility for drivers entering and exiting the property;
    - (7) twenty-five (25) foot minimum landscaped bufferyard within the 100 foot and 50 foot setbacks pursuant to (I)(8) herein ; and
    - (8) must comply with all requirements of the City of Madeira Code Section 150.20 regarding parking.
- (5) Accessory buildings and uses may be permitted if approved by the Planning Commission as being consistent with the purposes and provisions of this chapter.

(G) Development Plan Requirements.

- (1) Full size plat of development, drawn to a scale of 1"=50', with north arrow, and identification of site in relation to adjacent main roads;

- (2) Existing and proposed property lines, and dimensions and acreage of the proposed development, certified by a licensed engineer or registered surveyor;
- (3) Existing and proposed topography at two foot contour intervals prepared and certified by a registered surveyor;
- (4) Footprints of existing structures on lots to be developed and all adjacent lots, with notations for proposed demolition of any structures;
- (5) Footprints of all proposed structures;
- (6) All proposed setbacks, indicating dimension and distance from property lines to proposed structures, including decks, porches, and patios;
- (7) Location and dimension of all parking areas and facilities, park or playground areas, vehicular and pedestrian ways, other common areas, and all other impermeable public or private paved surfaces;
- (8) Location and dimension of all entrances into and exits from the development;
- (9) Information on all signage to be located on the property pursuant to the City of Madeira sign code and application;
- (10) Location, construction material, illumination in foot-candles of all proposed lighting, and photometric study;
- (11) Location of dumpsters, with required sufficient screening, and location of mailboxes;
- (12) Location of all utilities, and location and directional flow of existing and proposed water lines, storm and sanitary sewers, and areas for on-site water retention and detention;
- (13) Elevations of proposed structures, including notation for proposed building height;
- (14) A landscape plan including the following:
  - (a) the location of all existing vegetation, noting whether it will remain or not;
  - (b) the location of proposed bufferyards, landscaping and screening, including trees, flower beds, shrubs, mounding, grass, and open space, and all irrigation devices for the landscaping;
  - (c) a table listing the common and botanical names of all proposed plants to be planted or retained on the site pursuant to Section (I)(9) herein.
- (15) Traffic circulation and access including adequacy of adjacent streets, entrances and exits, traffic flow, sight distance, curb cuts, turning lanes, and existing or recommended traffic signalization, and emergency vehicle access.

(H) Additional Submission Requirements:

- (1) A traffic management plan, provided by a licensed engineer, that includes but is not limited to a traffic count along Hosbrook Road, prior to development, and a projection of the traffic impact after development, illustrating line of sight issues, alignment with driveways or streets on Hosbrook Road, identification of sight-distance issues related to access to the proposed development, and distance to adjacent driveways on Hosbrook Road;
- (2) A statement explaining in detail the use to which the property shall be put and the anticipated effect which the proposed development shall have upon adjacent property;
- (3) A letter from MSD indicating the availability of sewer service;
- (4) A legal description of the lots;
- (5) A description of all exterior building materials and colors;
- (6) A schedule for construction, and cost estimates for the completion of the development including all public and private improvements;
- (7) Plans, if any, to dedicate any streets or other property to the city;

- (8) A performance bond or other acceptable security and other legal data to ensure completion of streets, bufferyard and amenities in accordance with the accepted plans may be required for the final development plan; and
- (9) The development plan shall provide a written acknowledgement that all landscaping, screening, mounding, buffering, structure drives, and parking areas and buildings shall be maintained in first class condition, to the satisfaction of the City Manager and his/her designee, and that failure to so maintain these items shall be a violation of this Zoning Code, enforceable in all ways available in law and equity as any other violation of the Madeira Zoning Code.

I. General Standards for TD #3 Development Plan Approval.

The active use of property and the design of the buildings in the TD#3 shall only be approved if the Planning Commission determines that they do not significantly create an adverse influence on any abutting or surrounding properties; provide for an orderly transition from more restrictive (residential) to less restrictive districts; and if the plan is designed to maximize the public interest and private benefit in a balanced manner. The following standards apply to all uses:

- (1) waste disposal dumpsters and any other ground level mechanical units must be shielded by suitable fencing/landscaping as approved by the ARO;
- (2) any rooftop mechanical units including satellite dishes must be shielded from residential areas and approved by the ARO;
- (3) site must maintain an Impervious Surface Ratio of 60% (ISR = total area of buildings and impervious surface areas divided by the total area of the lot) or 40% open space);
- (4) maximum height permitted is 827 feet above mean sea level (includes rooftop mechanicals which must be screened as stated above in (2));
- (5) loading areas must be to the rear of the site;
- (6) exterior lighting shall be kept low (-0- footcandles net increase at property line abutting residential district or use) and shall be shielded from adjacent residential districts or use with house side shields; and
- (7) new parking areas shall be placed, where practical and feasible, behind the building, with parking in the front of the building limited to short term pick-up and drop off and valet parking. Parking areas which must be placed to the side or rear of the buildings shall be softened by the placement of landscaping islands in order to reduce the visual mass of impervious surface and parked motor vehicles.
- (8) landscaping shall be installed in the bufferyard which creates a physical and visual buffer from adjoining properties, and for this purpose, a combination of live plantings shall be planted within the side and rear yard setbacks and described herein, according to acceptable nursery industry standards; and shall comply with the following criteria:
  - (a) all landscaping materials shall consist of only live plantings, and shall be installed and maintained according to accepted nursery industry procedures;
  - (b) landscaping materials shall be of sufficient height to block the line of sight of any residential areas adjacent to the TD#3 site. Mounding may be included as part of the line of sight screening. The line of sight shall be from a ten foot height located in all points along the residential property line which abuts the T D#3 development;
  - (c) landscaping planted within the bufferyard shall create a dense vegetative screen, which shall be equally effective in winter and summer;

- (d) shrubs planted in the bufferyard shall be a minimum height of 3 ½ feet when planted, and shall achieve a height of six feet, no later than 24 months after the initial installation;
- (e) when required landscaping is located along the area extending from the building to the street, the height shall be consistent with sight distance from the street for safety purposes;
- (f) each shrub shall be planted sufficiently close to the next shrub, according to nursery industry standards, to provide an effective, dense screen;
- (g) deciduous trees shall be a minimum caliper of three inches at the time of planting (if deciduous trees are used for screening purposes, additional materials must be used to create a dense buffer);
- (h) evergreen trees shall be a minimum of eight feet in height at the time of planting;
- (i) no driveways or parking areas shall be placed within the bufferyard;
- (9) access to these properties shall be limited to Hosbrook Road only;
- (10) developments are encouraged to limit the number of curb cuts per site;
- (11) if there is a conflict between the requirements in the TD#3 and the parking regulations, the TD#3 requirements will supercede the underlying requirements; and
- (12) violation of these provisions shall be grounds for the city to refuse to issue a certificate of occupancy.

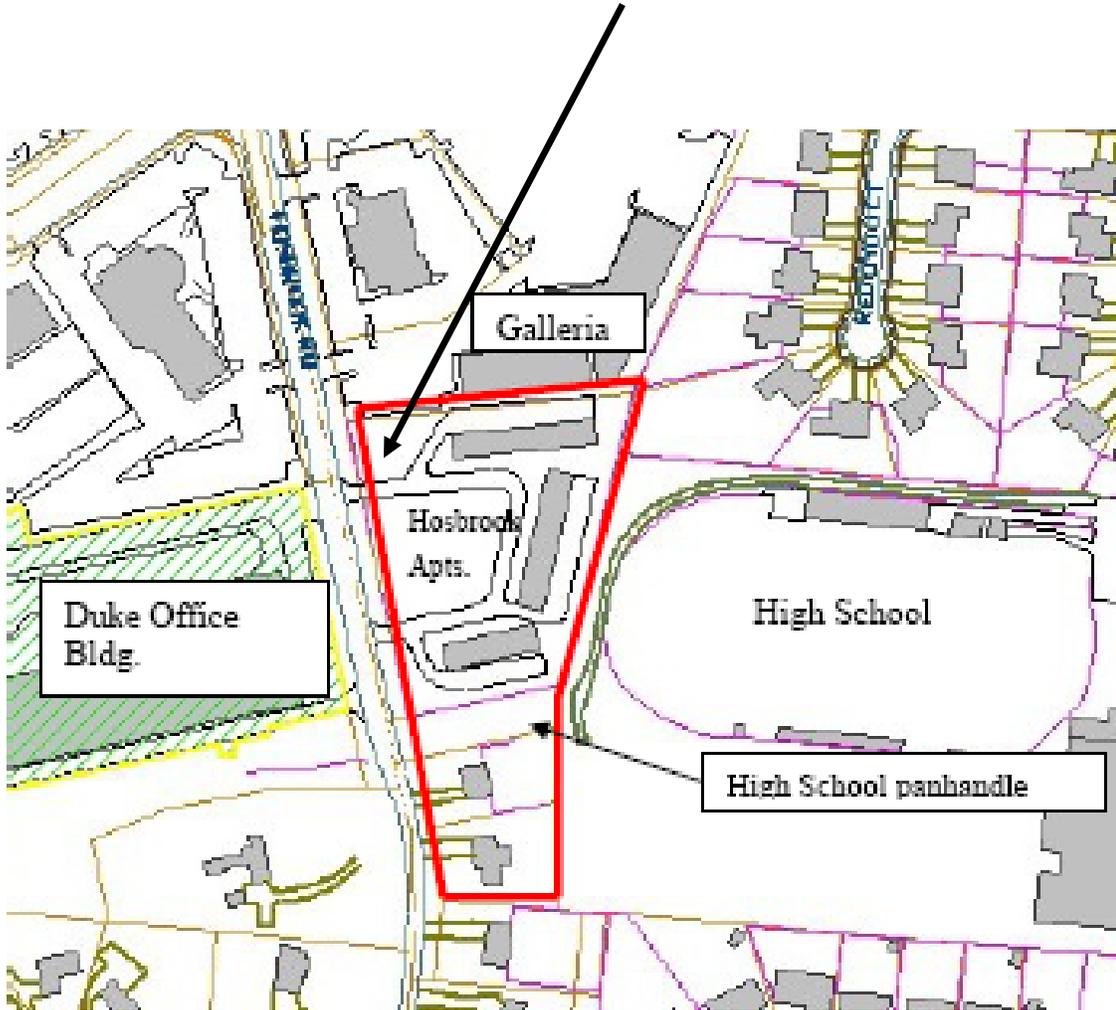
(J) Submission and review of Site Development Plan.

- (1) Application procedure.
  - (a) Any person or company intending to develop a use other than a single-family residential use must apply for approval of a TD#3 Development Plan, and shall first schedule a pre-application conference with the City Manager or his assignee. At this conference, the prospective applicant must present in writing to the City Manager a preliminary proposal for the Development Plan.
  - (b) The purpose of the pre-application conference will be to, generally, evaluate the impact on adjacent areas and neighborhoods and identify the benefits achieved, such as better use of property, stabilizing future changes and providing a transition area. This information should also identify the adjoining property owners and any existing non-conforming uses.
  - (c) Upon completion of the pre-application conference an application may be filed with the office of the City Manager. The application shall be in compliance with the requirements of this chapter and in such form as approved by the City Manager. If the application does not conform with the requirements of this chapter, the applicant shall be notified by the City Manager and no further consideration of the application shall occur until it is in compliance with the terms of this chapter.
- (2) Public hearing and decision.
  - (a) Upon receipt of an application in the format prescribed by this chapter, the City Manager shall forward the application to the Planning Commission for consideration. The Planning Commission shall review said TD#3 Development Plan and shall hold a public hearing on such application. Notice of such hearing shall be sent to all property owners within 200 feet of the proposed TD#3 development not less than ten days prior to the scheduled hearing.

- (b) Subsequent to the public hearing, the Planning Commission shall either approve the TD#3 Development Plan as submitted, approve a modified plan with conditions, or deny approval of the plan. Five members of the Planning Commission must vote in the affirmative to approve any such application either as submitted or modified. Approval of this plan shall be considered approval of a Preliminary TD#3 Development Plan. Approval of the Preliminary Development Plan shall not constitute any authority to proceed with construction or development. Such approval shall only authorize the applicant to submit a proposed Final Development Plan.
  - (c) A proposed Final TD#3 Development Plan shall be submitted within six months of the date of the Planning Commission meeting at which the Preliminary Plan was approved. The Planning Commission may extend this period for a reasonable period upon a showing of good cause by the applicant. The final plan must be substantially consistent with the preliminary Development Plan in all respects. If the Planning Commission finds that a proposed final plan of a development area is in substantial accordance with and represents a detailed expansion of the Preliminary Plan, as previously approved, that the Final Plan complies with all of the conditions and adjustments which may have been imposed in the approval of the Preliminary Plan, that it is in accordance with the criteria and provisions and purpose of this chapter and this code, that all agreements, contracts, deed restrictions, dedications, declaration of ownership and other required documents are in acceptable form and have been executed, that all fee payments have been made, then the Planning Commission shall approve such Final Plan and certify its approval to the City Manager and City Council. Certification of the approval shall be for informational purposes only.
  - (d) Following the approval of a Final Plan, the City Manager shall issue such permits as are necessary and under his jurisdiction upon payment of the required fees.
- (3) Amendment of plan.
- (a) A major amendment of an existing plan shall require review and approval of the Planning Commission in the same manner and with the same requirements imposed by this chapter for approval of an original TD#3 Development Plan. A major amendment shall include any change of use from one category to another as listed in subdivision (F) Permitted Uses, hereof; any increase in the impervious area of coverage in excess of 5% over the amount approved in the original plan; the enlargement of any building from that originally approved; or the consolidation of use of adjoining TD#3 Development Plans.
  - (b) Minor amendments to a TD#3 Development Plan must be approved by the City Manager and the ARO. Either official may refer the request for approval of a minor amendment to the Planning Commission if the official determines that the request should be considered a major amendment. Minor amendments shall include internal changes to buildings and structures; changes to the front of a building; changes to signs which are not being enlarged and are consistent with what was previously approved by the Planning Commission; amendments to the drainage pattern; or replacement of existing lighting provided it remains effectively shielded. A minor amendment shall also include any change of use that does not change the category of use as those categories are set forth in subdivision (F) Permitted Uses hereof.

ORDINANCE NO. 10-22  
EXHIBIT "B"

**TRANSITIONAL DISTRICT NUMBER # (TD#3)**



- 525-13-10 7836 Hosbrook Road (existing apartments)
- 525-9-155 7465 Loannes (existing panhandle piece of property belonging to High School)
- 525-9-156 7800 Hosbrook Road (existing single family residence)
- 525-9-157 7786 Hosbrook Road (existing single family residence)